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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OFFICE OF THE SECRETARY

In the Matter of Implementation of the)	
Local Competition Provisions in the)	CC Docket No. 96-98
Telecommunications Act of 1996)	
)	
)	
Interconnection Between Local Exchange)	
Carriers and Commercial Mobile Radio)	CC Docket No. 95-185
Service Providers)	

COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") hereby files these comments in response to the Further Notice of Proposed Rulemaking in the above-captioned docket.¹ The sole issue raised by the Federal Communications Commission ("Commission") in this rulemaking proceeding is whether requesting carriers may purchase unbundled shared transport facilities to originate or terminate interexchange traffic to customers to whom the requesting carrier does not provide local exchange service.²

The answer based on the Commission's prior holding in the Reconsideration Order is very simple – a requesting carrier cannot evade the subsidies contained in

¹ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, Third Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 97-295, rel. Aug. 18, 1997, appeals pending sub nom. Southwestern Bell Telephone Company v. FCC, Nos. 97-3389, et al. (8th Cir.). Due to the brevity of these comments, U S WEST has not included a summary as requested in paragraph 72 of the Further Notice of Proposed Rulemaking. Also, no Table of Contents is included as there are no headings.

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local transport and switching charges unless it controls the end user customer line. In its Reconsideration Order, the Commission clearly and unambiguously stated that a “requesting carrier that purchases an unbundled local switching element for an end user may not use that switching element to provide interexchange service to end users for whom that requesting carrier does not also provide local exchange service.”³ The Commission found that the use of unbundled switching elements in such a manner would be inconsistent with its statement that “a competing provider orders the unbundled basic switching element *for a particular customer line*.”⁴ This same rationale applies where a competitive provider purchases shared transport as an unbundled element, but does not provide both interexchange and local exchange service to the end user.

U S WEST continues to believe that requesting carriers should never be allowed to evade payment of the subsidies contained in local transport and switching charges merely by purchasing unbundled switching elements. This method of subsidy avoidance is certainly not permissible where the requesting carrier does not control the end user customer line. In effect, requesting carriers are attempting to create ambiguity where none exists in order to circumvent the Commission’s holding in the Reconsideration Order.

² Further Notice of Proposed Rulemaking ¶ 61.

³ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, Order on Reconsideration, 11 FCC Rcd. 13042, 13049 ¶ 13 (1996) (“Reconsideration Order”).

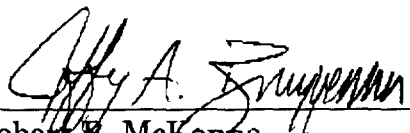
⁴ Id. (citation omitted, emphasis in original).

For these reasons, competitive providers should not be permitted to purchase unbundled shared transport facilities unless they provide both interexchange and local exchange service to the end user.

Respectfully submitted,

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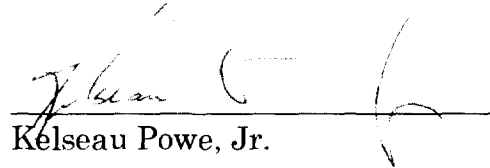
Its Attorneys

Of Counsel,
Dan L. Poole

October 2, 1997

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 2nd day of October, 1997, I have caused a copy of the foregoing **COMMENTS OF U S WEST, INC.** to be served, via hand-delivery, upon the persons listed on the attached service list.


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